IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5525 of 1990

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MATHURBHAI DHULABHAI VAGHARI & 5 - Petitioner(s)

Versus

GUJARAT REVENUE TRIBUNAL DELETED & 4 - Respondent(s)

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Appearance :

NOTICE SERVED for Petitioner(s) : 1 - 4, 6,UNSERVED-EXPIRED (N) for Petitioner(s) : 5,
DELETED for Respondent(s) : 1 - 3.
RULE SERVED for Respondent(s) : 4 - 5.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 27/09/2005

ORAL JUDGMENT

In this petition under Article 227 of the Constitution of India the petitioners have challenged the order passed by the Deputy Collector under Section 84 of The Bombay Tenancy and Agricultural Lands Act; the revisional order passed by the Gujarat Revenue Tribunal; another order passed by the Gujarat

Revenue Tribunal dismissing the restoration application filed by the petitioners; and also the order passed by the Gujarat Revenue tribunal rejecting the application of the petitioners for reviewing the aforesaid order. It was the contention on behalf of the petitioners that when the review application came up for preliminary hearing the petitioners' advocate applied for adjournment on the ground that a Senior Advocate who was to argue the matter met with an accident, and as no medical certificate was produced the Gujarat Revenue Tribunal rejected the application for adjournment and ultimately the Gujarat Revenue Tribunal dismissed the application for review. When the present Special Civil Application came to be heard for admission hearing and for interim relief on 3.8.1990, the following order came to be passed by this Court [Coram: Mr. C.V. Jani, J.]:

> "In this petition under Article 227 of the Constitution of India, the petitioners have challenged an order passed by the Deputy Collector under section 84 of the Bombay Tenancy and Agricultural Lands Act; revisional order passed by the Gujarat Revenue Tribunal, another order passed by the Gujarat Revenue Tribunal dismissing the restoration application of the petitioners and a third order passed by the Gujarat Revenue Tribunal, rejecting the application by reviewing the aforesaid order. When the review

application came up for preliminary hearing, the petitioners' advocate applied for adjournment on the ground that the Senior Advocate who was to argue the matter had met with an accident. No medical certificate was produced, and the Revenue Tribunal rejected the application for adjournment. Ultimately the Revenue Tribunal dismissed the application for review also. When this petition came up for hearing at the admission stage, the petitioner's Advocate stated that the petitioners were prepared to pay some costs to the respondents Nos. 4 & 5 if some opportunity was given to them for arguing the review application on merits before the Gujarat Revenue Tribunal. After some discussion, Mr. A.J. Patel, appearing for the respondents Nos. 3 & 4 agreed that he would be prepared to accept Rs. 1,000/- (Rupees one Thousand) from the petitioners if the Revenue Tribunal is directed to decide the application for review No. 36/90 within a period of two months. As such a course would remove the grievance of the petitioners and would put an end to the litigation as early as possible I issue Rule. Mrs. Bela Yagnik for the petitioners applies for deleting the respondents Nos. 1, 2 & 3. She is permitted to delete the said respondents.

By consent, the order of the Gujarat Revenue Tribunal Annexure-E in Review Application No. T.E.N. (C.A.) 36/90 is hereby set aside. The Revenue Tribunal

> will decide the said review application on merits within a period of two months from the receipt of the writ of this High Court. Writ to be sent forthwith.
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> Mrs. Bela Ygnik has paid Rs.1,000/- (Rupees One Thousand) as costs to the concerned respondent. She undertakes on behalf of the petitioners who are present in the Court that the petitioners or their Advocate would not unnecessarily seek any adjournment before the Gujarat Revenue Tribunal."

It appears that, thereafter, on remand fresh order must have been passed by the Gujarat Revenue Tribunal pursuant to the direction issued by this Court in its order dated 3rd August 1990. Though served, nobody appears on behalf of the petitioners. In view of the facts and circumstances, the present Special Civil Application is disposed of with a liberty to challenge the order that might have been passed by the Gujarat Revenue Tribunal, on remand, and in fact either the said order must have been challenged and/or must have become final. Rule is discharged. Liberty to apply in case of difficulty.

[M.R. Shah, J.]

RMR.